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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,694	01/26/2000	David L. Multer	FUSN1-010002US0	8944

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VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

EXAMINER

KING, JUSTIN

ART UNIT PAPER NUMBER

2181

DATE MAILED: 07/17/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/491,694

Applicant(s)

MULTER, DAVID L.

Examiner

Justin I. King

Art Unit

2181

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the length of the abstract is exceeding the maximum of 250. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims 5 and 33 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

The time sequence in claim 5 is inherent in the claim 4.

The claim 33's data center limitation does not have any functional feature to further limit the subject matter of claim 32.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner recommends changing the "sync engine" and its associated verb from singular to plural (claim 14, lines 1-2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanai et al (U.S. Patent No. 5,742,792) in view of Hurvig (U.S. Patent No. 5,628,005).

Referring to claims 1, 2, 4-8, 17, 19-21, 25-26, 30-36: Yanai discloses a remote data mirroring system with a first sync engine, a second sync engine (figure 1, structures 16, 44) on the first system and the second system (figure 1, structures 14, 46). Yanai discloses that each sync engine can transmit and receive updated information for the purpose of mirroring. Hurvig teaches a file accessing system in a network environment; Hurvig teaches a data store (figure 4, figure 208) to store shared or common data at a central storage on network (figure 4, structure 200). Hurvig teaches the data store with a control server (figure 4, structure 206) coupled to network and in communication with the first and the second clients. The information is

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transmitted and exchanged between the clients via the data store (column 2, lines 13-29). Hence, it would have been obvious to one with ordinary skill in the computer art at the time applicant made the invention to adapt Hurvig's teaching onto Yanai because Hurvig enables one to have a better data management by storing data in a network repository.

Referring to claims 3, 18, 33, and 35: Claims 3, 18, 33, and 35 are rejected over Yanai in view of Hurvig as stated above; furthermore, an "Official Notice" is taken on the following: It has been well known to one in the computer art to use the Internet connection as a network connection. Users can access shared files over the Internet connection with or without the VPN.

Referring to claims 9-10, 22 and 28-29: Claims 9-10, 22 and 28-29 are rejected over Yanai in view of Hurvig as stated above; furthermore, Hurvig teaches that the management server authorizes and locks the access to the information (column 2, lines 13-29).

Referring to claims 11-12, 16, and 23: Claims 11-12, 16, and 23 are rejected over Yanai in view of Hurvig as stated above; furthermore, "Official Notices" are taken on the followings:

1. It is known to one in the computer art that any computer system can obtain its data from a network device and have its own dedicated network storage space; both Novell Netware and Microsoft® NT provide non-shared dedicated network storage space.
2. The clustering system architecture is a well-known industry practice for fault tolerance and load balancing. Each server is considered as a sync server in a clustering architecture.

Referring to claims 13, 15, 34, and 36: Claims 13, 15, 34, and 36 are rejected over Yanai in view of Hurvig as stated above; furthermore, "Official Notices" are taken on the following: It is well known to one in the computer art to compress and encode the network communication data packets, it is also well known that these network data packets are in universal format (the OSI layers) and independent from the data file's associated application.

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Referring to claims 14 and 27: Claims 14 and 27 are rejected over Yanai in view of Hurvig as stated above; furthermore, Yanai discloses a data interface (figure 1, structures 30, 36, 42, and 66) and a difference transaction generator (figure 1, structures 32, 68, column 9, lines 39-44). Yanai further discloses the data version (column 4, lines 64-67, column 5, lines 1-15) and logging the multiple versions (column 4, lines 24-31); therefore, Yanai's sync engine has a copy of a previous state of data and is capable to provide information on a state of the different data.

Referring to claims 24 and 37: Claims 24 and 37 are rejected over Yanai in view of Hurvig as stated above; furthermore, "Official Notices" are taken on the followings:

1. It is known to one in the computer art that any computer operation has to be supported by the software; therefore, Yanai's sync engine's operation is supported by a software, which must have an application object to execute the operation and an application object store to buffer the data.
2. It is known to one in the computer art to use the delta engine to filter data.

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Conclusion

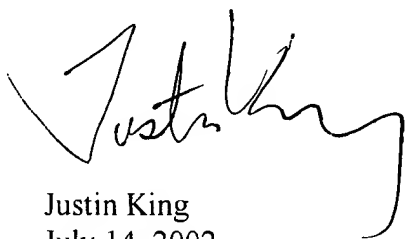
7. The prior art made of recorded and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,023,723 to McCormick et al.: McCormick discloses the data filtering with the delta server.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin King whose telephone number is (703) 305-4571. The examiner can normally be reached on Monday through Friday from 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephones are unsuccessfully, the examiner's supervisor, Peter Wong can be reached at (703) 305-3477.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose number is (703)-306-5631.



Justin King
July 14, 2002



PETER WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100